EXHIBIT D

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

TODD C. BANK, Individually and on Behalf of All Others Similarly Situated, *Plaintiff,* -against- INDEPENDENCE ENERGY GROUP LLC, and INDEPENDENCE ENERGY ALLIANCE LLC, *Defendants.*	1:12-cv-01369-JG-VMS **PLAINTIFF'S RESPONSE TO DEFENDANTS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

Plaintiff, Todd C. Bank, hereby responds to Defendants' First Set of Requests For Production of Documents pursuant to Fed. R. Civ. P. 34 as follows:

GENERAL STATEMENTS

1. In responding to these Requests for Production, Plaintiff does not waive any rights to object to any order related to discovery in this action.

2. Plaintiff continues to search for information responsive to Defendants' Requests, and therefore reserves the right to supplement its responses to each Request with documents as such documents become available, subject to all applicable objections.

3. By responding to any Request, Plaintiff does not concede the materiality of the subjects to which it refers. The Responses made herein are made expressly subject to, and without waiving or intending to waive, any questions or objections as to competency, relevancy, materiality, privilege, or admissibility as evidence or for any other purpose, of any of the documents produced, in any proceeding including trial of this action.

4. Inadvertent production of any information or document that is privileged, or is otherwise immune from discovery, shall not constitute a waiver of any privilege or of any other

ground for objecting to discovery with respect to such document or the information contained in the document, or Plaintiff's right to object to the use of any such document during any proceeding in this litigation or otherwise.

GENERAL OBJECTIONS

1. Plaintiff objects to each Definition and Request to the extent that it requires Plaintiff to produce documents from persons over whom Plaintiff has no control.

2. Plaintiff objects, pursuant to Fed. R. Civ. P. 26(b)(1), to each Definition and Request to the extent that it seeks disclosure of privileged documents.

3. Plaintiff objects, pursuant to Fed. R. Civ. P. 26(b)(1), to each Definition and Request to the extent that it seeks documents that are irrelevant to the subject matter of this action or is not reasonably calculated to lead to the discovery of admissible evidence, including the Request for the identification of "all" documents or "each" and "every" document when all relevant facts can be obtained from fewer than "all" documents or "each" and "every" document.

4. Plaintiff objects, pursuant to Fed. R. Civ. P. 26(b)(2), to each Definition and Request to the extent that it seeks documents that are unreasonably cumulative or duplicative.

5. Plaintiff objects, pursuant to Fed. R. Civ. P. 26(b)(2), to each Definition and Request to the extent that it seeks documents that, if they exist, are obtainable from some other source that is more convenient, less burdensome, or less expensive.

6. Plaintiff objects, pursuant to Fed. R. Civ. P. 26(b)(2), to each Definition and Request to the extent that it seeks documents that Defendants have had ample opportunity by discovery in the action to obtain the information sought.

7. Plaintiff objects, pursuant to Fed. R. Civ. P. 26(b)(2), to each Definition and Request to the extent that it seeks documents whose production outweighs its likely benefit.

8. Plaintiff objects, pursuant to Fed. R. Civ. P. 26(b)(3), to each Definition and Request

to the extent that it seeks disclosure of attorney's work product or trial-preparation material.

9. Plaintiff objects to each Definition and Request to the extent that it is ambiguous, vague, or otherwise incomprehensible.

10. Plaintiff objects to each Definition and Request to the extent that it concerns the time period prior to January 17, 2011, or after January 17, 2012, and responds to each Request subject to this objection.

RESPONSES AND OBJECTIONS

Defendants request that Plaintiff produce all Documents that refer to, relate to, concern, consist of, evidence, or demonstrate the following:

Request No. 1: The Subject Telephone Number is the same telephone number used by Plaintiff in connection with his law practice.

Response to Request No. 1: Plaintiff objects based upon General Objection Nos. 1, 3, and 7.

Request No. 2: The Subject Telephone Number is identified by Plaintiff as his law office in pleadings, court filings, and professional correspondence generated Plaintiff in connection with his law practice.

Response to Request No. 2: Plaintiff objects based upon General Objection Nos. 1, 3, and 7.

Request No. 3: The identity of the Subject Telephone Number.

Response to Request No. 3: Plaintiff objects based upon General Objection Nos. 1, 3, and 7.

Request No. 4: The Subject Telephone Number, and/or the telephone number is on Plaintiff's business cards.

Response to Request No. 4: See attachments.

Request No. 5: Plaintiff provides the Subject Telephone Number to clients, prospective clients, other attorneys, and/or other businesses or business contacts in connection with Plaintiff's law practice.

Response to Request No. 5: Plaintiff objects based upon General Objection Nos. 1, 3, and 7.

Request No. 6: The Subject Telephone Number is identified as Plaintiff's professional office number in the New York Lawyers Diary and Manual.

Response to Request No. 6: Plaintiff does not possess any responsive documents.

Request No. 7: The Subject Telephone Number is identified as Plaintiff's professional office number in Martindale Hubble, Avvo, FindLaw, Yellowbook, and/or any other legal or business directory or listing.

Response to Request No. 7: Plaintiff does not possess any responsive documents.

Request No. 8: The Subject Telephone Number is identified as Plaintiff's professional office number in Plaintiff's written and online advertising and marketing information about his law practice, including but not limited to his website.

Response to Request No. 8: Plaintiff does not possess any responsive documents.

Request No. 9: The Subject Telephone Number was provided by Plaintiff to the New York State Bar in connection with his attorney registration.

Response to Request No. 9: Plaintiff objects based upon General Objection Nos. 1, 3, and 7. Furthermore, the proof that the Subject Telephone Number was provided by Plaintiff to the New York State Bar in connection with his attorney registration is publicly available.

Request No. 10: Any action taken by Plaintiff to have the Subject Telephone Number removed from any professional listing or business directories prior to the service of these requests upon him.

Response to Request No. 10: Plaintiff does not possess any responsive documents.

Request No. 11: Any deduction taken by Plaintiff on his personal or business tax returns related to the Subject Telephone Number.

Response to Request No. 11: Plaintiff objects based upon General Objection Nos. 3, and 7.

Request No. 12: Plaintiff's personal and business tax returns for the years 2008 through 2013, and any other documents related to any tax deduction or tax treatment of Plaintiff's address at 119-40 Union Turnpike, Fourth Floor, Kew Gardens, New York 11415 as a business office or business expense.

Response to Request No. 12: Plaintiff objects based upon General Objection Nos. 3 and 7.

Request No. 13: Any record relating to the telephone call to the Subject Telephone Number referenced in the Complaint in the Litigation, including but not limited to recordings, handwritten or typed notes, caller identification (caller-ID) records, voicemail, and answering machine recordings.

Response to Request No. 13: See attachments.

Request No. 14: All telephone numbers used by Plaintiff at 119-40 Union Turnpike, Fourth Floor, Kew Gardens, New York 11415.

Response to Request No. 14: Plaintiff objects based upon General Objection Nos. 3 and 7.

Request No. 15: All demand letters and complaints filed by Plaintiff, whether on behalf of himself or others, asserting claims under the Telephone Consumer Protection Act up to and including the present.

Response to Request No. 15: Plaintiff objects based upon General Objection Nos. 3 and 7.

Request No. 16: The registration of the Subject Telephone Number with the telephone company as a residential telephone number.

Response to Request No. 16: Plaintiff objects based upon General Objection Nos. 3 and 7. Subject to, and without waiving, such objections, see attachments.

Request No. 17: Plaintiff's alleged use of the Subject Telephone Number as a residential telephone line, and its status as a residential telephone line.

Response to Request No. 17: Plaintiff objects based upon General Objection Nos. 3 and 7. Subject to, and without waiving, such objections, see attachments.

Request No. 18: All Documents and Communications identified or relied upon in answering Defendants' First Set of Interrogatories, First Request for Production, and Request for Admissions.

Response to Request No. 18: See attachments.

Request No. 19: All Documents supporting the allegations in the Complaint or which Plaintiff intends to use or rely upon in support of his claims and/or at trial.

Response to Request No. 19: Plaintiff objects based upon General Objection Nos. 3 and 7. Subject to, and without waiving such objections, see attachments.

Request No. 20: All written expert reports, including drafts and final versions, submitted to Plaintiff by each expert that Plaintiff expects to call as a witness at any trial of the Litigation.

Response to Request No. 20: Plaintiff does not possess any responsive documents.

Request No. 21: The curriculum vitae of all experts that Plaintiff expects to call as a witness at any trial of the Litigation.

Response to Request No. 21: Plaintiff does not possess any responsive documents

Request No. 22: A list of all matters in which the expert has provided an opinion for the last ten years, along with a copy of each written expert report generated by the expert during this time period for each expert that Plaintiff expects to call as a witness at any trial of the Litigation.

Response to Request No. 22: Plaintiff does not possess any responsive documents.

Request No. 23: A list of publications written by an expert in the last ten years for each expert that Plaintiff expects to call as a witness at any trial of the Litigation

Response to Request No. 23: Plaintiff objects based upon General Objection Nos. 1, 3, and 7.

Subject to, and without waiving, such objections, Plaintiff does not possess any responsive documents.

Dated: November 12, 2014

s/ Todd C. Bank

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